

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:18 CV 96

BRIAN HOGAN, on his own behalf and as
representative of all unnamed class members who
are similarly situated, **and BRIAN HOGAN**, as
parent and next friend of H.H., both on her own
behalf and as representative of all unnamed class
members who are similarly situated,

Plaintiffs,

v.

**CHEROKEE COUNTY, CHEROKEE COUNTY
DEPARTMENT OF SOCIAL SERVICES,
SCOTT LINDSAY**, in his individual capacity,
CINDY PALMER, in her individual capacity,
SCOTT LINDSAY, in his official capacity as
Attorney for Cherokee County Department of Social
Services, **CINDY PALMER**, in her official capacity
as Director of Cherokee County Department of
Social Services, **DSS SUPERVISOR DOE #1**,
both in his/her individual capacity and his/her
capacity as an employee of Cherokee County
Department of Social Services, **and DSS SOCIAL
WORKER DOE #1**, both in his/her individual
capacity and his/her official capacity as an employee
of Cherokee County Department of Social Services,

Defendants.

ORDER

Currently pending before the Court is Plaintiff's Motion for Leave to
Amend to File First Amended Complaint (Doc. 27) ("Motion to Amend").

One of the amendments Plaintiffs propose is the joinder of four additional parents and five additional children, all as new plaintiffs. Pls.' Mem. (Doc. 27-1) at 4. Defendants' briefing indicates that Defendants do not object to the inclusion of these additional plaintiffs.

Not addressed, however, is whether joinder of the proposed additional plaintiffs would be proper pursuant to Rule 20 of the Rules of Civil Procedure, which allows persons to be joined as plaintiffs in one action if "(A) they assert any right to relief jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and (B) any question of law or fact common to all plaintiffs will arise in the action." Fed. R. Civ. P. 20(a)(1). That is, while the existing Plaintiffs and the proposed plaintiffs may have similar claims, it is not clear that those claims share the commonality required by Rule 20. See Abatemarco v. Legasus of N. Carolina, LLC, No. 1:11CV23, 2012 WL 13001550, *3-4 (W.D.N.C. June 1, 2012).

As this issue arises in the context of Plaintiff's Motion to Amend, the undersigned finds that it should be considered at this time and in conjunction with that Motion.

Accordingly, the parties are **DIRECTED** to submit briefs, not to exceed seven (7) pages each, addressing the propriety of joining the additional plaintiffs as proposed in the Motion to Amend. Such filings are to be made within ten (10) days of the entry of this Order.

Signed: October 1, 2019

A handwritten signature in black ink, reading "W. Carleton Metcalf", written over a horizontal line.

W. Carleton Metcalf
United States Magistrate Judge

